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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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)
ENOCH ADAMS, JR., LEROY ADAMS,) Case No. A04-0049 CV (JWS)
ANDREW KOENIG, JERRY NORTON,)
DAVID SWAN and JOSEPH SWAN,)
)
Plaintiff,)
)
v.)
)
TECK COMINCO ALASKA)
INCORPORATED)
)
Defendant.) **AFFIDAVIT OF THANE W. TIENSON**
) **IN SUPPORT OF DEFENDANT-**
) **INTERVENOR NORTHWEST ARCTIC**
) **BOROUGH'S RESPONSE TO**
) **PLAINTIFFS' OBJECTION TO**
NANA REGIONAL CORPORATION and) **BOROUGH'S UNDISCLOSED EXHIBITS**
NORTHWEST ARCTIC BOROUGH,)
) **AND WITNESS AND MOTION IN**
Intervenor-Defendants.) **LIMINE TO EXCLUDE EXHIBITS AND**
) **WITNESS NOT TIMELY DISCLOSED**

STATE OF OREGON)
)
COUNTY OF Multnomah)

I, THANE W. TIENSON, being first duly sworn, upon oath depose and state:

(1) Attached to this Affidavit and marked as Exhibit "A" is a true copy of the Third Amended, Restated Contract for Services (agreement between NAB and Teck Cominco Alaska, Inc. dated 10/17/2003).

(2) Attached to this Affidavit and marked as Exhibit "B" is a true copy of Chapter 6.08 of the NAB Code.

(3) Attached to this Affidavit and marked as Exhibit "C" is a true copy of Title 9 of the NAB Code.

(4) Attached to this Affidavit and marked as Exhibit "D" is a true copy of NAB's 2007 Legislative Priorities.

(5) Attached to this Affidavit and marked as Exhibits "E" and "F" are true copies of e-mail exchanges between attorney Luke Cole and attorney Thane Tienson regarding stipulated facts dated January 22, 2008.

(6) Attached to this Affidavit and marked as Exhibit "G" is a true copy of KRPC's Opposition to Motion to Stay dated April 15, 2003.

(7) Attached to this Affidavit and marked as Exhibit "H" is a true copy of NAB's Motion for Leave to Intervene and Supporting Memorandum of Law dated November 4, 2002.

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(8) Attached to this Affidavit and marked as Exhibit "I" is a true copy of NAB's Reply Memorandum in Support of Motion for Leave to Intervene dated November 27, 2002.

(9) Attached to this Affidavit and marked as Exhibit "J" is a true copy of NAB's Motion for Reconsideration of Order Denying Intervention and Supporting Memorandum of Law and Request for Oral Argument dated January 17, 2003.

(10) Attached to this Affidavit and marked as Exhibit "K" is a true copy of KRPC's Opposition for Leave to Intervene by NAB dated November 13, 2002.

(11) Attached to this Affidavit and marked as Exhibit "L" is a true copy of Plaintiffs' Opposition to Motion for Reconsideration by NAB dated January 29, 2003.

(12) No discovery requests have been propounded to NAB in conjunction with this case, nor did NAB make any disclosures to the other parties in this case prior to January 18, 2008.

(13) For that reason, I, as primary counsel for NAB, did not consider that I had a duty to supplement any disclosures or responses under Fed.R.Civ.P. 26(e).

(14) A mediation in this case was held the week of April 9, 2007 in Kotzebue, Alaska. During that period of time, attorney Cole was introduced to Mayor Whiting of NAB. All of the individual plaintiffs, who live in Kivalina which is part

of the NAB are personally acquainted with Mayor Whiting. She has made numerous trips to Kivalina to speak with them, and most, if not all of the individual plaintiffs have met with and spoken with the Mayor. She will not be testifying as an expert witness.

(15) All four of the documents sought to be admitted by the plaintiffs are public documents to which the plaintiffs and citizens of the Borough have access at any time.

Dated this 5th day of February, 2008, at Portland, Oregon.

/s/ Thane W. Tienson
Thane W. Tienson

The foregoing affidavit was acknowledged before me this 5th day of February, 2008, by Thane W. Tienson.

/s/ Jeri G. Zwick
Residing at Portland, Oregon
My commission expires 5/31/11

Certificate of Service

I hereby certify that on February 5th, 2008, a copy of the foregoing AFFIDAVIT OF THANE W. TIENSON was served electronically on:

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and on the following by regular U.S. Mail:

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s/David S. Case

David S. Case